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ABSTRACT

Prepared by the District of Columbia Street Law Project for its annual city-wide mock trial competition, this instructional handout provides material for a murder trial. The defendant shot the victim in the course of a violent dispute. The prosecution charges murder while the defendant claims to have acted in self-defense. The handout clarifies the laws and explains the legal precedents. As evidence, the handout provides witness statements from a bartender and waiter who witnessed the beginning of the dispute, the arresting officer, neighbors who heard the dispute, and the defendant. Through participation in mock trials and analysis of the activity, students gain an insider's perspective on courtroom procedure and a basic understanding of the legal mechanism through which society resolves its disputes. Mock trials develop critical analysis, questioning and listening skills, and skills in preparing and organizing materials. (JD)

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LAW-RELATED EDUCATION PROGRAM

MOCK TRIAL

ED 378 113

United States v. Percy W. Snodgrass

(Street Law - 1976).

Mock Trial Schedule

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8/15/77 Organizational Meeting
8/16/77 Planning Meeting
8/18/77 Planning Meeting
8/19/77 Final Meeting
Mock Trial Presentation

Defense

Percy Snodgrass
John Watkins
Gaylord Torrence Isbell

Prosecution

Clyde McClanahan
Patrol Michael Jones
Marshall (Marsha) Shrews

SO 024 657

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MOCK TRIAL SCHEDULE

I. Participants Briefing

II. Jury Selection

III. Mock Trial

- A. Court in Session
- B. Opening Statements
- C. Presentation of Prosecution Case
  1. Direct Examination
  2. Cross Examination
  3. Redirect Examination
- D. Presentation of Defense
  1. Direct Examination
  2. Cross Examination
  3. Redirect Examination
- E. Closing Statements
- F. Instructions to Jury
- G. Jury Deliberation

IV. Debriefing of Case

Q and A with Judge, Attorneys, and Staff

V. Implications and Applications of Mock Trial Approach

STATEMENT OF FACTS

STREET LAW CORRECTIONS MOCK TRIAL--1976

UNITED STATES v. PERCY W. SNODGRASS

STATEMENT OF FACTS

On the evening of Friday, December 5, 1975, Percy Snodgrass, the defendant, was visiting with Butch Burley, an old friend of his who was in Washington, D.C., on leave from his ship which was stationed at Norfolk, Virginia. After attending a high school basketball game, the two men went to the Pink Garter Tavern for a few drinks.

During their hour or so at the tavern Burley had quite a few drinks and proceeded to make several passes at Maxine Sullivan, a waitress at the tavern and a high school friend of Snodgrass. Although Sullivan, accustomed to such behavior because of her work, seemed unaffected by Burley's flirting, Snodgrass was outraged by his friend's actions.

After returning to Snodgrass's apartment at 1412 N St., N.W., later in the evening, an argument broke out between the two men. The noise from their argument and the fight which ensued caused a neighbor living below Snodgrass's apartment to call the police. When police arrived on the scene, they found Burley's body, bleeding profusely, on the floor of Snodgrass's apartment. Subsequently, he died.

Snodgrass was apprehended by police at his apartment, indicted by a Grand Jury and is now at trial, charged with the first degree murder of Robert M. Burley on December 5, 1975, at 11:30 p.m.

WITNESSES FOR THE PROSECUTION

1. Clyde McClanahan, a bartender at the Pink Garter Tavern
2. Patrolman Michael Jones, the arresting police officer
3. Marshall (or Marsha) Shrews, a tenant living in the apartment below Snodgrass's

WITNESSES FOR THE DEFENSE

1. Percy W. Snodgrass, the defendant
2. John Watkins, a waiter at the Pink Garter Tavern
3. Gaylord Torrence Isbell, the landlord of Snodgrass's apartment

STIPULATIONS

1. Maxine Sullivan, the waitress, has moved out of the jurisdiction and is unavailable as a witness.

2. The gun found in the apartment at 1412 N St., N.W., on December 5, 1975 had Percy Snodgrass's fingerprints on it and was the gun from which the bullet was fired that killed Butch Burley.

STATEMENT OF WITNESS FOR THE PROSECUTION

Marshall (Marsha) Shrews

I am twenty-five years old, live at 1412 N Street, N.W., Apartment 2, and I'm a high school English teacher.

On Friday night, December 5, 1975, I was watching "The Scene Tonight" when I heard the defendant and Butch Burley enter the building. It was a little after 11:00 p.m. because the news hadn't been on for long. The building is not sound-proof, and I could hear most of what they were saying as soon as they got into the foyer. Mr. Snodgrass was badgering Butch or Mr. Burley. They went upstairs to Mr. Snodgrass' apartment, which is directly above mine.

I want to say that I've known the two young men--or really been acquainted with them--for about ten years, since their high school days. Mr. Snodgrass was a classmate of mine and he did not do well, not because of a lack of intelligence, but because he had deep psychological problems. Mr. Burley was a care-free type of fellow, very friendly, and a real ladies' man. He ended up dropping out of school to go into the service, but it wasn't because he was stupid. He just didn't apply himself to his studies. He was too fun-loving for that. He was very popular, especially among the girls.

About a month ago, I happened to move into the apartment below Mr. Snodgrass. He's been an inconsiderate neighbor during that time, and he has become more of an introvert since he was a student in high school. I understand he's been studying law through a correspondence course, and he stays up til the wee hours of the morning clacking on a typewriter. He has let his hair grow long and wears a "napkin tie."

Well, to get back to that night, Mr. Snodgrass was fussing with Mr. Burley, calling him a "degenerate" and dressing him down for "carousing, drinking, and wenching." Mr. Burley was a good-natured fellow, and he wasn't arguing with Mr. Snodgrass but just shaking off his reproaches and insults like a duck sheds water. In fact, he tried to "josh" with the defendant and get him out of his ugly mood by talking him into going out to what sounded like a dancing place. And Mr. Burley told the defendant that he'd teach him "to be a real Tom Jones with the broads" and that "what you need is a good stiff drink to set your compass straight, Mate." Then the defendant got irate--really livid, and said in a loud voice "you're not going to mess with Maxine." After that a terrible ruckus erupted. It sounded like things were being thrown.

At that point, I decided I'd had enough, and I called the police. The noise had gotten so loud that I had trouble hearing the desk sergeant over the phone. Just as I hung up, I heard Mr. Burley yell, "Put the gun down, mate. Enough's enough." Then came the shot, and next the policeman arrived and Mr. Isbell came out of his apartment--which is the one across the hall from the defendant's. The officer told us to get outside. I took Mr. Isbell in tow, as he's hard of hearing, and I didn't know whether he'd heard the officer, and we went across the street.

In about ten more minutes a paddy wagon pulled up and the officers went into Building 120 and came out with the defendant and took him away. I don't think Percy should have shot Burley. Percy should understand that most men like to chase women, and that's just the way Burley was.

MARSHALL (MARSHA) SHREWS, being first duly sworn, upon his/her oath deposes and says:

That he/she is a witness for the Prosecution in the action of United States v. Percy W. Snodgrass; that he/she has read the foregoing statement and knows the contents thereof; that the matters stated therin are true of his/her own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he/she believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____
/s/ Marshall (Marsha) Shrews

SUBSCRIBED AND SWORN to before me this _____ day of _____ 19_____.

_____
Notary Public

My commission expires:

STATEMENT OF WITNESS FOR THE PROSECUTION

Officer Michael Jones

I am twenty-three years old and a member of the Washington, D.C., Police Department. At approximately 11:20 p.m. on December 5, 1975, I got a radio call to investigate a disturbance at 1412 N Street, N.W. When I got to the apartment building, a Mr. (or Miss) Shrews told me that there had been a terrible ruckus for about fifteen minutes in the upstairs apartment, Number 4, and that there had just been a gunshot. I told him (or her) to get outside and into a safe place, and then proceeded up the steps. A little old man with a hearing aid came out of the apartment on the right, Number 3. I also instructed him to get out of the range of fire and directed Mr. (Miss) Shrews to help him. When they had left the doorway downstairs, I called through the door of Apartment 4, identifying myself as a police officer. I heard some noise inside, like someone scurrying around, and then a sound like a window or a sliding glass door being opened. I pushed the apartment door open--it was not locked--and drew my revolver. Upon entering the apartment, I immediately saw the defendant on the balcony. On the floor near the doorway was the body of a large man in a sailor's uniform bleeding profusely. He was later identified as Butch Burley. Next to Burley's body was a .38 caliber pistol.

Sensing what had happened, I decided to rush the defendant. Once I reached him on the balcony, I restrained him with the handcuffs. I had to be a little rough with him until I got him under control with the handcuffs. I gave him all four Miranda warnings and asked him if he understood them. He indicated that he did. I asked him what had happened and he replied, "I killed him. The filthy swine had it coming to him."

I put in a call for a mobile cage. Three other officers responded and took Snodgrass to the jail. While waiting for the mobile cage to arrive, I had a chance to talk with Snodgrass some more and noticed the smell of alcohol on his breath. He seemed to be slightly intoxicated. During our conversation I think he began to realize that he had admitted the killing, so he then told me, "Listen, I had to kill him; it was him or me."

After Snodgrass had been taken away, I investigated the scene of the crime. The body of Burley was sprawled on the living room carpet four to six feet from the door. He was lying face upward with his head toward the door. He had been shot thorugh the head, the bullet entering just below the left cheekbone and emerging in a gaping hole in the rear of the head. He had bled profusely; the entire carpet around his head was soaked with blood and the defendant had blood stains on his clothes. I thought sure he was dead at the time, but he wasn't. He gasped twice and muttered, "Snodgrass did it; see that he fries!"

There was a large indentation in the front door and bourbon whiskey was splattered around the indentation and had run down the door to the floor. There were pieces of a shattered Bourbon Deluxe bottle on the floor in the vicinity of the door, and identifiable fingerprints of both Burley and Snodgrass were found on some of the pieces. The .38 had the fingerprints of Snodgrass on it. Ballistics experts have determined that Burley was killed by a bullet fired from that gun. The only other fingerprints found in the apartment were those of Burley and Snodgrass. According to police records, Snodgrass doesn't have any record except a "petty larceny" conviction when he was 18.

OFFICER MICHAEL JONES, being first duly sworn, upon his oath deposes and says:

That he is a witness for the Prosecution in the action of United States v. Percy W. Snodgrass; that he has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____

/s/ Officer Michael Jones

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19___.

_____

Notary Public

My commission expires:

STATEMENT OF WITNESS FOR THE PROSECUTION

Clyde McClanahan

I am twenty-five years old and tend bar at the Pink Garter Tavern.

December 5, 1975, the defendant and the deceased came into the place around 9 or 9:30 p.m. They took a table near the far end of the bar--a table covered by Maxine Sullivan and John (Jean) Watkins. Burley was drinking Boilermakers, and he put away quite a few. But he was a big man, and obviously used to drinking. So he didn't get anything more than "high." Of course, I would not have served him if he had been drunk. He was just trying to have a good time, and he was having success at it--in spite of his companion's prudishness.

The defendant really annoyed me. He acted like some kind of a straight-laced, simon pure queer. If he didn't approve of what was going on in a tavern, he should have stayed out instead of spoiling other people's fun. This Butch Burley seemed to be a good, regular Joe-type of fellow. I couldn't figure out what he was doing "catting around" with a creep like Snodgrass.

Well, anyhow, Burley was drinking and singing and kidding around with the waitress, Maxine. She didn't seem to mind. Believe me, if he had gotten obnoxious, Maxine would have let me know but quick. Snodgrass kept telling Burley he was "a real animal." He criticized Burley for "drinking and wenching" as I heard him put it. I wondered whether Snodgrass was drunk. Of course, that's part of my job. I strictly adhere to the barkeeper's law by refusing to serve one who is intoxicated. I decided he wasn't drunk but was just some kind of "weirdo." So I filled the orders he placed with Maxine. I still have the checks. Burley drank seven Boilermakers, and Snodgrass drank two Pink Garters--mainly a ladies' drink because they're so mild.

Well, just before they left, around a quarter of eleven, Snodgrass really got riled up and said to Burley, "I'll kill you if you don't leave Maxine alone." Although the place was pretty crowded by then, I could hear him from the other end of the bar and over all the noise because of his high, squeaky voice. I don't think Burley was alarmed by the statement, but I sure would have been on my guard against such a threat from a weirdo like Snodgrass. Those guys are unpredictable.

At that point, Burley evidently decided it was futile to try to have any fun, and he got up and went to the men's room. Shortly afterwards, they left. Burley was feeling good, you might say. But he wasn't "blitzed"--if you know what I mean.

CLYDE McCLANAHAN, being first duly sworn, upon his oath deposes and says:

That he is a witness for the Prosecution in the action of United States v. Percy W. Snodgrass; that he has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____

/s/ Clyde McClanahan

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19_____.

_____

Notary Public

My commission expires:

STATEMENT OF THE DEFENDANT

Percy W. Snodgrass

I am twenty-five years old and since graduating from high school six years ago, I have worked for the telephone company as a bookkeeper. On Friday afternoon, December 5, Butch Burley called me at work and asked me to go to the high school basketball game with him that night. I don't like sports generally and crowds make me feel uncomfortable. I didn't really want to go, but Butch was such a nice guy that I couldn't turn him down.

Butch and I went to the same elementary and high school, and we had been good friends since the first grade. He dropped out of school in the eleventh grade and joined the Navy. I have seen him only five or six times during the last seven years. He was due to report back to his ship in Norfolk, Virginia, by midnight on the Sunday after he died.

Well, we went to the game, and after leaving the gym, Butch talked me into going to the Pink Garter Tavern. He wanted to drink and mess around with the girls. I didn't want to go there since I don't enjoy drinking and chasing women, but Butch's ship was about to leave for a three-month cruise. I wanted to show him a good time, so I went with him. We got there around 9:00 p.m. and Butch started drinking pretty heavily. We argued about his guzzling Boilermakers because I didn't want him to blow his money and get real drunk and get into trouble. I guess I got a little irritated when he started pestering Maxine Sullivan who was working there as a waitress. Maxine and I went to high school together, and she was always very nice to me. I regarded her as a lady. I didn't like Butch treating her like some street-walker. He made me so mad when he tried to pinch her and made vulgar gestures in her presence. And I guess I got really ticked off when he said that I just didn't know what women were made for and that he would break me in on Maxine. That's when I said to him, "I'll kill you if you don't leave her alone." I suppose I got really worked up, but I certainly didn't mean it literally--it was just an expression.

Anyway, Butch wasn't getting anywhere with any of the women. When a bunch of sanitation workers came in and kind of took the place over, Butch finally agreed with me that we ought to go to my place at 1412 N Street, N.W., and watch TV. I think that he was persuaded when I reminded him that there was a fifth of Bourbon Deluxe in the trunk of his car. As soon as we got to the car he got the bottle and drank it straight all the way back to my place.

We got to my place around 11:15 p.m. In the half-hour since leaving the tavern, he had made quite a dent in the bottle and was getting nastier instead of happier. We had only been back at my place about ten minutes when Butch got bored with watching the CBS late movie and drinking bourbon, and demanded that I give him the car keys so he could drive back to the tavern and pick up Maxine. I thought he was too high to drive, and I didn't want him to bother Maxine anymore, so I refused.

At that point, he got so mad that he just went wild and attacked me. He grabbed me, threw me on the floor, and started choking me. I got away and I ran for the door, but he threw the whiskey bottle at me. I tripped and fell dodging it. He charged at me from across the room, and I was just able to get up and get the couch between us before he got to me. He was a raving madman at this point. Considering how big and how mad he was, I knew that I was a goner if he got ahold of me.

I keep an old .38 revolver that my father gave me before he died in the end table drawer. I was just able to get it out of the drawer when he leaped across the couch and grabbed me. I was just able to break away and made for the door when he was charging at me again. I fired blindly in his direction and the next thing I knew, he had fallen on top of me and there was blood all over the two of us. It was just horrible. I got myself out from under the body and I suddenly got violently sick. I threw up all over the place. Then I heard a man from outside the apartment hollering to open up.

I panicked, dropped the gun, and instead of opening the door, I ran to the sliding glass door to the balcony, opened it, and stepped onto the balcony. I don't really know what I planned to do. I was beside myself. The policeman got into the apartment while I was on the balcony. I saw the officer coming toward me with his revolver in hand. He tackled me, got me down, and put handcuffs on me. I must have temporarily lost my mind because everything seems like a bad dream. I have had epilepsy since childhood. Maybe that had something to do with it.

The policeman said he was going to give me some advice or warning or something like that. He was really mad and was much rougher than he needed to be. Some of the cuts, bruises, and the scratches I have were caused by his manhandling me. He muttered something real fast and then started shouting in my face, "Do you understand? Do you understand?" All the while he was shaking me and pulling hard on the handcuffs. I didn't understand most of what he was saying, but I answered

"yes" to all of his questions. All I remember is his saying something about taking good advice and confessing. I don't know what I told him. I was terrified, confused, and wasn't thinking straight at all. Later some other policemen came and took me to jail. I think the officer was reading his questions off some card he carried in his billfold.

PERCY W. SNODGRASS, being first duly sworn, upon his oath deposes and says:

That he is a witness on his own behalf in the action of United States v. Percy W. Snodgrass; that he has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____
/s/ Percy W. Snodgrass

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19____.

_____
Notary Public

My commission expires:

STATEMENT OF WITNESS FOR THE DEFENSE

John (Jean) Watkins

I am twenty-four years old and live at 117 Stribling Avenue, Washington, D.C. I work as a waiter (waitress) at the Pink Garter Tavern located at 906 Florida Avenue. On the night of December 5, Maxine Sullivan, a waitress at the Tavern, and I were working a group of tables together. This is the way we usually work; we both cover all the tables by taking orders whenever we see that someone wants something. Turns out we can cover more tables this way, and can make more in tips.

On that evening, Percy Snodgrass came into the Tavern with some big guy who was wearing a sailor's uniform. They took a table in the section Maxine and I were working. I had known Percy from high school days, though he was a year ahead of me. The big guy looked sort of familiar, but I didn't know him. I had always liked Percy and had a few casual words with him while taking his order.

The other guy was obviously one of those guys who go barhopping for a little action. We see them all the time. It was obvious by the way he flirted with Maxine each time she brought him a drink. I guess the guy had all those drinks so he'd have plenty of opportunity to flirt with Maxine. When I would go to take their orders, Percy would be telling this other guy that he just wasn't treating Maxine with the respect he owed a lady.

I should mention that Maxine, who has since moved to the West Coast, also knew Percy from high school. She mentioned to me that very night how sweet it was of him to be so protective of her. In fact, when Percy and this other guy left around 10:30 or so, they left a big tip and a note from Percy to Maxine containing an apology for the rudeness his friend had shown her. Percy really is a nice, considerate guy. It's hard to believe that he would ever hurt anyone.

JOHN (JEAN) WATKINS, being first duly sworn, upon his/her oath deposes and says:

That he/she is a witness for Percy W. Snodgrass in the action of United States v. Percy W. Snodgrass; that he/she has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his/her own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he/she believes them to be true; and

FURTHER, that such contents were given freely and with his/her knowledge and consent in the presence and with the assistance of counsel.

_____
/s/ John (Jean) Watkins

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19_____.

_____
Notary Public

My commission expires:

STATEMENT OF WITNESS FOR THE DEFENSE

Gaylord Torrence Isbell

I am seventy-one years of age and live at 1412 N Street, N.W., Apartment 3. I have known the young man who is on trial for three months--ever since he moved into Apartment 4, the other one on the second floor of my building right across the hall from mine. Percy is a fine, hardworking, and serious-minded young man. I can't imagine that he would have it in him to hurt a flea.

I had only seen Burley twice at the apartment house. Both of those occasions were within two weeks of his death and each time he was intoxicated and very boisterous. I can't help but think that he was a very bad influence on Percy.

Well, to get to that fateful night--I was awakened at 11:25 (the clock is right next to my bed) by a terrible commotion. Burley was yelling and cursing at the top of his lungs and Percy was trying to calm him down and shush him up. It sounded like Burley was chasing Percy around the apartment because I heard loud stomping and Percy is so frail that he couldn't have made so much noise. I heard a loud crash and some tinkling, like a glass had been thrown. Then I distinctly heard Burley say, "I'll choke you to death, you son of a bitch." Then I heard a gunshot.

I put on my robe and went out of the apartment into the hall. A policeman was coming up the stairway, and he told me to hurry downstairs and go outside. Marshall (or Marsha) Shrews who lives in Apartment 2 right below Percy was on the stoop, and he (or she) tugged at my sleeve until we got across the street and into the vestibule of another apartment building. Several minutes later, I saw a paddy wagon pull up outside our building. The officers went in and came out with Percy and took him away.

GAYLORD TORRENCE ISBELL, being first duly sworn, upon his oath deposes and says:

That he is a witness for Percy Snodgrass in the action of United States v. Percy W. Snodgrass; that he has read the foregoing statement and knows the contents thereof; that the matters stated therein are true of his own knowledge, except as to those matters stated therein upon information and belief, and as to those matters he believes them to be true; and

FURTHER, that such contents were given freely and with his knowledge and consent in the presence and with the assistance of counsel.

_____

/s/ Gaylord Torrence Isbell

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19_____.

_____

Notary Public

My commission expires: